

**DEC 02 2005****NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RANDALL WILKIN CHARTIER,

Defendant - Appellant.

No. 05-10147

D.C. No. CR-02-00469-WBS

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
William B. Shubb, Chief Judge, Presiding

Argued and Submitted November 15, 2005  
San Francisco, California

Before: SCHROEDER, Chief Judge, RYMER, and GOULD, Circuit Judges.

The district court's finding that Randall Wilkin Chartier was a leader or organizer of the marijuana manufacturing operation, and therefore was not eligible for a reduced sentence under 18 U.S.C. § 3553(f), did not violate Chartier's Sixth Amendment rights. *United States v. Labrada-Bustamante*, --- F.3d ----, 2005 WL

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

3005792, at \*6-7 (9th Cir. Nov. 10, 2005) (holding that the “safety valve” provision of 18 U.S.C. § 3553(f) is not unconstitutional under *Apprendi v. New Jersey*, 530 U.S. 466 (2000), or *Blakely v. Washington*, 542 U.S. 296 (2004)).

**AFFIRMED.**